

LAST UPDATE 07/03/03

APPENDIX A EXCERPTS FROM CONTENTION-SPECIFIC LAW, REGULATION, AND POLICY

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CHUGACH NATIONAL FOREST APPEALS DECISION APPENDIX A

EXCERPTS FROM CONTENTION-SPECIFIC LAW, REGULATION, AND POLICY

The laws, regulations, and Forest Service policies excerpted below include only selected material referenced by Appellants, or by the Reviewing Officer as applicable to the appeal findings. The regulations and policies cited reflect the versions that were in effect at the time the Record of Decision was signed. All are verbatim quotes of the relevant text.

Federal Law (Statutes, Public Laws, and Executive Orders)

Clean Air Act of 1955 (P.L. 84-159)

Sec. 176(c)(1) . . . No department, agency, or instrumentality No department, agency, or instrumentality of the Federal Government shall engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity which does not conform to an implementation plan after it has been approved or promulgated under section 110 . . .

Conformity to an implementation plan means:

- (A) conformity to an implementation plan's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards; and
- (B) that such activities will not (i) cause or contribute to any new violation of any standard in any area; (ii) increase the frequency or severity of any existing violation of any standard in any area; or (iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

Multiple-Use Sustained-Yield Act of 1960 (P.L. 86-517)

Sec. 1. It is the policy of the Congress that the National Forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes. The purposes of...this title are declared to be supplemental to, but not in derogation of, the purposes for which the national forests were established as set forth in the [Organic Act].

Wilderness Act of 1964 (P.L.88-577)

Sec. 2(c) . . . An area of wilderness is further defined to mean in this Act an areas of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which

- (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable;
- (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation;
- (3) has at least 5,000 acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and
- (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

Administrative Procedure Act of 1966 (P.L. 89-544 (5 USC 706))

Title 5 Part I Chapter 7

Sec. 706 Scope of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall-

- (1) compel agency action unlawfully withheld or unreasonably delayed; and
- (2) hold unlawful and set aside agency action, findings, and conclusions found to be -
 - (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.

Wild and Scenic Rivers Act of 1968 (P.L. 90-542)

Composition of system; requirements for State-administered components

Sec. 2(a) The national wild and scenic rivers system shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned, that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this Act and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system, including, upon application of the Governor of the State concerned, the Allagash Wilderness Waterway, Maine; that segment of the Wolf River, Wisconsin, which flows through Langlade County; and that segment of the New River in North Carolina extending from its confluence with Dog Creek downstream approximately 26.5 miles to the Virginia State line. Upon receipt of an application under clause (ii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the *Federal Register*. Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation [Fund] Act of 1965 or any other provision of law shall not be treated as an expense to the United

States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by, a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (ii).

Establishment of boundaries; classification

Sec. 3(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) (except where a different date if [is] provided in subsection (a)), establish detailed boundaries therefor (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments. Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the *Federal Register* and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

Review requirements for early designations and management plans

(d)(1) For rivers designated on or after January 1, 1986, the Federal agency charged with the administration of each component of the National Wild and Scenic Rivers System shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this Act. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands. The plan shall be prepared, after consultation with State and local governments and the interested public within 3 full fiscal years after the date of designation. Notice of the completion and availability of such plans shall be published in the *Federal Register*.

Congressionally designated study rivers

Sec. 5(a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:
[List of study rivers and study periods is omitted.]

Agency-identified study rivers

(d)(1) In all planning for the use and development of water and related land resources, consideration shall be given by all Federal agencies involved to potential national wild, scenic and recreational river areas, and all river basin and project plan reports submitted to the Congress shall consider and discuss any such potentials. The Secretary of the Interior and the Secretary of Agriculture shall make specific studies and investigations to determine which additional wild, scenic and recreational river areas within the United States shall be evaluated in planning reports by all Federal agencies as potential alternative uses of the water and related land resources involved.

Restrictions on hydro and water resource development projects on designated rivers

Sec. 7(a) The Federal Power Commission [FERC] shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of designation of a river as a component of the national wild and scenic rivers system. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act. Any license heretofore or hereafter issued by the Federal Power Commission [FERC] affecting the New River of North Carolina shall continue to be effective only for that portion of the river which is not included in the national wild and scenic rivers system pursuant to section 2 of this Act and no project or undertaking so licensed shall be permitted to invade, inundate or otherwise adversely affect such river segment.

Management direction

Sec. 10(a) Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its aesthetic, scenic, historic, archaeological, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area.

Management policies

Sec. 12(a) The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with

section 2(a)(ii), 3(a), or 5(a), shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, following November 10, 1978, as may be necessary to protect such rivers in accordance with the purposes of this Act. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate State or local official for the planning, administration, and management of Federal lands which are within the boundaries of any rivers for which approval has been granted under section 2(a)(ii). Particular attention shall be given to scheduled timber harvesting, road construction, and similar activities which might be contrary to the purposes of this Act.

(c) The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the Administrator, Environmental Protection Agency and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.

National Environmental Policy Act of 1969 (P.L. 91-190)

Title 1. Congressional Declaration of National Environmental Policy

Sec. 102

. . . (2) all agencies of the Federal Government shall - (C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on - . . .

(iii) alternatives to the proposed action.

Endangered Species Act of 1973 (P.L. 93-205)

INTERAGENCY COOPERATION

Sec. 7 (a)(1) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this title.

Sec. 7. (a)(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency ... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical [habitat].

Sec. 7. (c) Biological Assessment. (1) To facilitate compliance with the requirements of subsection (a)(2) each Federal agency shall, with respect to any agency action of such agency for which no contract for construction has been entered into and for which no construction has begun on the date of enactment of the Endangered Species Act

Amendments of 1978, request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action. . .

Sec. 9 (a) General. – (1) Except as provided in sections 6(g)(2) and 10 of this Act, with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act it is unlawful for any person subject to jurisdiction of the United States to- (B) take any such species within the United States or the territorial sea of the United States.

Forest and Rangeland Renewable Resources Planning Act of 1974 (P.L.93-378)

National Forest system Resource Planning
Section 6

(a) As a part of the Program provided for by Section 3 of this Act, the Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other federal agencies.

Federal Land Policy and Management Act of 1976 (P.L. 94-579)

Sec. 505. Each right-of-way shall contain (a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued there under; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or State law; and (iv) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards; and (b) such terms and conditions as the Secretary concerned deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the lands adjacent to or traversed by such right-of-way; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto.

National Forest Management Act of 1976 (P.L. 94-588)

Sec. 6. (F)(3)(i) Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. Those . . . currently in existence shall be revised as soon as practicable to be made consistent with such plans. When land management plans are

revised, resource plans and permits, contracts, and other instruments, when necessary shall be revised as soon as practicable.

Alaska National Interest Lands Conservation Act (ANILCA) of 1980 (P.L. 96-487)

Sec. 101(d) ["No More Clause"] This Act provides sufficient protection for the national interest in the scenic, natural, cultural, and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new conservation areas, or new national recreation areas, has been obviated thereby.

Sec. 501(b) [Copper River Delta] . . . the primary purpose of management of lands within the Copper River Delta (as designated by the Act) is the conservation of fish and wildlife and their habitats.

Sec. 708(b)(3) ["No More Clause"] . . . areas reviewed in such Final Environmental Statement and not designated as wilderness or for study by this Act or remaining in further planning upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans;

Sec. 708(b)(4) ["No More Clause"] . . . and unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Alaska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

Sec. 810 [Subsistence Uses] . . .

Sec. 1110(a) [Traditional Activities] . . . the Secretary shall permit, on conservation system units . . . the use of snowmachines, motorboats, airplanes, and nonmotorized surfact transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites.

Sec. 1326(b) ["No More Clause"] No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

Executive Order 11644 Use of Off-Road Vehicles on the Public Lands
(February 8, 1972)

Section 1. Purpose. It is the purpose of this order to establish policies and provide for procedures that will ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands.

Section 2. Definitions.

(3) "off-road vehicle" means any motorized vehicle designed for or capable of cross-country travel on or immediately over land, water, sand snow, ice, marsh, swampland, or other natural terrain

Executive Order 11989 Off-Road Vehicles on Public Lands
(May 24, 1977)

Section 2. Add the following new Section to Executive Order No. 11644:

"Section 9. *Special Protection of the Public Lands.* (a) Notwithstanding the provisions of Section 3 of this Order, the respective agency head shall, whenever he determines that the use of off-road vehicles will cause or is causing considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of particular areas or trails of the public lands, immediately close such areas or trails to the type of off-road vehicle causing such effects, until such times as he determines that such adverse effects have been eliminated and that measures have been implemented to prevent future recurrence.

Code of Federal Regulations (CFR)

**36 CFR 217 - APPEAL OF REGIONAL GUIDES AND NATIONAL FOREST
LAND AND RESOURCE MANAGEMENT PLANS**

Sec. 217.5 Giving notice of decisions subject to appeals.

(b) The Deciding Officer shall also give notice of decisions appealable under this part as follows:

(2) For all other decisions, legal notice shall be published in a newspaper of general circulation identified pursuant to the requirements of paragraph (d) of this section. Deciding Officers may, at their discretion, also publish notice of their decisions in additional newspapers. . .

Sec. 217.6 Participants.

(a) Other than Forest Service employees, any person or any non-Federal organization or entity may challenge a decision covered by this part and request a review by the Forest Service line officer at the next administrative level.

Sec. 217.8 Appeal process sequence.

(a)(3) File the notice of appeal within 90 days of the date specified in the published legal notice for land and resource management plan approvals, significant amendments, or revisions, and for other programmatic decisions documented in a Record of Decision.

36 CFR 219 - PLANNING

Sec. 219.3 Management prescription.

Management practices and intensity selected and scheduled for application on a specific area to attain multiple-use and other goals and objectives.

Sec. 219.5 Interdisciplinary approach.

(b) In appointing team members, the responsible line officer shall determine and consider the qualifications of each team member on the basis of the complexity of the issues and concerns to be addressed through the plan. The team shall collectively represent diverse specialized areas of professional and technical knowledge applicable to the planning area, and the team members shall have recognized relevant expertise and experience in professional, investigative, scientific, or other responsible work in specialty areas which they collectively represent. The team may consist of whatever combination of Forest Service staff and other Federal government personnel is necessary to achieve an interdisciplinary approach.

36 CFR 219.6 Public participation

(d) Public participation activities should be appropriate to the area and people involved. Means of notification should be appropriate to the level of planning. Public participation activities may include, but are not limited to, requests for written comments, meetings, conferences, seminars, workshops, tours, and similar events designed to foster public review and comment.

(e) Public comments shall be considered individually and by type of group and organization to determine common areas of concern and geographic distribution. The result of this analysis should be evaluated to determine the variety and intensity of viewpoints about ongoing and proposed planning and management standards and guidelines.

36 CFR 219.9 Regional guide content

(a) The regional guide shall contain –

(2) A description of management direction including programs, goals, and objectives.

...

(5) Specific standards and guidelines for the following –

(iv) Designating transportation corridors and associated direction for forest planning, such as management requirements for corridors, transmission lines, pipelines, and water canals. (The designation of corridors is not to preclude the granting of separate rights-of-way over, upon, under, or through the Federal lands where the authorized line officer determines that confinement to a corridor is not appropriate.)

36 CFR 219.11 Forest Plan Content

The forest plan shall contain the following:

- (a) A brief summary of the analysis of the management situation, including demand and supply conditions for resource commodities and services, production potentials, and use and development opportunities;
- (b) Forest multiple-use goals and objectives that include a description of the desired future condition of the forest or grassland and an identification of the quantities of goods and services that are expected to be produced or provided during the RPA planning periods;
- (c) Multiple-use prescriptions and associated standards and guidelines for each management area including proposed and probable management practices such as the planned timber sale program; and
- (d) Monitoring and evaluation requirements that will provide a basis for a periodic determination and evaluation of the effects of management practices.

36 CFR 219.12 Forest planning – process

...

(b) *Identification of purpose and need.* ... The Forest Supervisor shall determine the major public issues, management concerns, and resource use and development opportunities to be addressed in the planning process.

(c) *Planning criteria.* Criteria shall be prepared to guide the planning process. Criteria apply to collection and use of inventory data and information, analysis of the management situation, and the design, formulation, and evaluation of alternatives . . .

(d) *Inventory data and information collection*

Each Forest Supervisor shall obtain and keep current inventory data appropriate for planning and managing the resources under his or her administrative jurisdiction. The Supervisor will assure that the interdisciplinary team has access to the best available data. This may require that special inventories or studies be prepared. The interdisciplinary team shall collect, assemble, and use data, maps, graphic material, and explanatory aids, of a kind, character, and quality, and to the detail appropriate for the management decisions to be made.

(e) *Analysis of the management situation.* The analysis of the management situation is a determination of the ability of the planning area covered by the forest plan to supply goods and services in response to society's demands. The primary purpose of this analysis is to provide a basis for formulating a broad range of reasonable alternatives . . .

(f) *Formulation of alternatives.* The interdisciplinary team shall formulate a broad range of reasonable alternatives ... to provide an adequate basis for identifying the alternative that comes nearest to maximizing net public benefits, consistent with resource integration and management requirements of §§ 219.13 through 219.27.

(1) Alternatives shall be distributed between the minimum resource potential and the maximum resource potential to reflect to the extent practicable the full range of major commodity and environmental resource uses and values that could be produced from the forest.

(g) *Estimated effects of alternatives.* The physical, biological, economic, and social effects of implementing each alternative considered in detail shall be estimated and compared according to NEPA procedures. These effects include those described in NEPA procedures (40 CFR 1502.14 and 1502.16) . . .

(k) *Monitoring and evaluation.* At intervals established in the plan, implementation shall be evaluated on a sample basis to determine how well objectives have been met and how closely management standards and guidelines have been applied...Monitoring requirements identified in the forest plan shall provide for-...(4)A description of the following monitoring activities . . . (i) actions, effects, or resources to be measured, and the frequency of measurements . . . (ii) expected precision and reliability of the monitoring process . . .

36 CFR 219.14

During the forest planning process, lands which are not suited for timber production shall be identified in accordance with the criteria in paragraphs (a) through (d) of this section.

(a) During the analysis of the management situation, data on all National Forest System lands within the planning area shall be reviewed, and those lands within any one of the categories described in paragraphs (a) (1) through (4) of this section shall be identified as not suited for timber production –

(1) The land is not forest land as defined in Sec. 219.3.

(2) Technology is not available to ensure timber production from the land without irreversible resource damage to soils productivity, or watershed conditions.

(3) There is not reasonable assurance that such lands can be adequately restocked as provided in Sec. 219.27(c)(3).

(4) The land has been withdrawn from timber production by an Act of Congress, the Secretary of Agriculture or the Chief of the Forest Service.

(b) Forest lands other than those that have been identified as not suited for timber production in paragraph (a) of this section shall be further reviewed and assessed prior to formulation of alternatives to determine the costs and benefits for a range of management intensities for timber production. For the purpose of analysis, the planning area shall be stratified into categories of land with similar management costs and returns. The stratification should consider appropriate factors that influence the costs and returns such as physical and biological conditions of the site and transportation requirements. This analysis shall identify the management intensity for timber production for each category of land which results in the largest excess of discounted benefits less discounted costs and shall compare the direct costs of growing and harvesting trees, including capital expenditures required for timber production, to the anticipated receipts to the government, in accordance with Sec. 219.12 and paragraphs (b)(1) through (b)(3) of this section.

(1) Direct benefits are expressed as expected gross receipts to the government. Such receipts shall be based upon expected stumpage prices and payments-in-kind from timber harvest considering future supply and demand situation for timber and upon timber production goals of the regional guide.

(2) Direct costs include the anticipated investments, maintenance, operating, management, and planning costs attributable to timber production activities, including mitigation measures necessitated by the impacts of timber production.

(3) In addition to long-term yield, the financial analysis must consider costs and returns of managing the existing timber inventory.

(c) During formulation and evaluation of each alternative as required in Sec. 219.12 (f) and (g), combinations of resource management prescriptions shall be defined to meet management objectives for the various multiple uses including outdoor recreation, timber, watershed, range, wildlife and fish, and wilderness. The formulation and evaluation of each alternative shall consider the costs and benefits of alternative management intensities for timber production as identified pursuant to paragraph (b) of this section in accordance with Sec. 219.12(f). Lands shall be tentatively identified as not appropriate for timber production to meet objectives of the alternative being considered if

—

(1) Based upon a consideration of multiple-use objectives for the alternative, the land is proposed for resource uses that preclude timber production, such as wilderness;

(2) Other management objectives for the alternative limit timber production activities to the point where management requirements set forth in Sec. 219.27 cannot be met; or

(3) The lands are not cost-efficient, over the planning horizon, in meeting forest objectives, which include timber production.

(d) Lands identified as not suited for timber production in paragraph (a) of this section and lands tentatively identified as not appropriate for timber production in paragraph (c) of this section shall be designated as not suited for timber production in the preferred alternative. Designation in the plan of lands not suited for timber production shall be reviewed at least every 10 years. Such lands may be reviewed and redesignated as suited for timber production due to changed conditions at any time, according to the criteria in paragraphs (a) and (c) of this section, and according to the procedures for amendment or revision of the forest plan in Sec. 219.10 (f) and (g).

36 CFR 219.17 Evaluation of roadless areas

(a) Unless otherwise provided by law, roadless areas within the National Forest System shall be evaluated and considered for recommendation as potential wilderness areas during the forest planning process, as provided in paragraphs (a) (1) and (2) of this section.

(1) During analysis of the management situation, the following areas shall be subject to evaluation:

- (i) Roadless areas including those previously inventoried in the second roadless area review and evaluation (RARE II), in a unit plan, or in a forest plan, which remain essentially roadless and undeveloped, and which have not yet been designated as wilderness or for nonwilderness uses by law. In addition, other essentially roadless areas may be subject to evaluation at the discretion of the Forest Supervisor.
- (ii) Areas contiguous to existing wilderness, primitive areas, or administratively proposed wildernesses, regardless of which agency has jurisdiction for the wilderness or proposed wilderness;
- (iii) Areas that are contiguous to roadless and undeveloped areas in other Federal ownership that have identified wilderness potential; and

- (iv) Areas designated by Congress for wilderness study, administrative proposals pending before Congress, and other legislative proposals pending which have been endorsed by the President.
- (2) For each area subject to evaluation under paragraph (a)(1) of this section, the determination of the significant resource issues, which in turn affect the detail and scope of evaluation required by the Forest Service, shall be developed with public participation. As a minimum, the evaluation shall include consideration of:
 - (i) The values of the area as wilderness;
 - (ii) The values foregone and effects on management of adjacent lands as a consequence of wilderness designation;
 - (iii) Feasibility of management as wilderness, in respect to size, nonconforming use, land ownership patterns, and existing contractual agreements or statutory rights;
 - (iv) Proximity to other designated wilderness and relative contribution to the National Wilderness Preservation System; and
 - (v) The anticipated long-term changes in plant and animal species diversity, including the diversity of natural plant and animal communities of the forest planning area and the effects of such changes on the values for which wilderness areas were created.

36 CFR 219.19 Fish and wildlife resource.

Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area.

(a) Each alternative shall establish objectives for the maintenance and improvement of habitat for management indicator species selected under paragraph (g)(1) of this section, to the degree consistent with overall multiple use objectives of the alternative. To meet this goal, management planning for the fish and wildlife resource shall meet the requirements set forth in paragraphs (a)(1) through (a)(7) of this section.

(a)(1) In order to estimate the effects of each alternative on fish and wildlife populations, certain vertebrate and/or invertebrate species present in the area shall be identified and selected as management indicator species and the reasons for their selection will be stated. These species shall be selected because their population changes are believed to indicate the effects of management activities. In the selection of management indicator species, the following categories shall be represented where appropriate: Endangered and threatened plant and animal species identified on State and Federal lists for the planning area; species with special habitat needs that may be influenced significantly by planned management programs; species commonly hunted, fished, or trapped; non-game species of special interest; and additional plant or animal species selected because their population changes are believed to indicate the effects of management activities on other species of selected major biological communities or on water quality. On the basis of

available scientific information, the interdisciplinary team shall estimate the effects of changes in vegetation type, timber age classes, community composition, rotation age, and year-long suitability of habitat related to mobility of management indicator species. Where appropriate, measures to mitigate adverse effects shall be prescribed.

(a)(2) Planning alternatives shall be stated and evaluated in terms of both amount and quality of habitat and of animal population trends of the management indicator species.

...

(a)(6) Population trends of the management indicator species will be monitored and relationships to habitat changes determined. This monitoring will be done in cooperation with State fish and wildlife agencies, to the extent practicable.

(a)(7) Habitat determined to be critical for threatened and endangered species shall be identified, and measures shall be prescribed to prevent the destruction or adverse modification of such habitat. Objectives shall be determined for threatened and endangered species that shall provide for, where possible, their removal from listing as threatened and endangered species through appropriate conservation measures, including the designation of special areas to meet the protection and management needs of such species.

36 CFR 219.21 Recreation resource

...

(g) Off-road vehicle use shall be planned and implemented to protect land and other resources, promote public safety, and minimize conflicts with other uses of the National Forest System lands. Forest planning shall evaluate the potential effects of vehicle use off roads and, on the basis of the requirements of 36 CFR part 295 of this chapter, classify areas and trails of National Forest System lands as to whether or not off-road vehicle use may be permitted.

36 CFR 219.27 Management requirements.

The minimum specific management requirements to be met in accomplishing goals and objectives for the National Forest System are set forth in this section. These requirements guide the development, analysis, approval, implementation, monitoring and evaluation of forest plans.

(a) Resource protection. All management prescriptions shall . . .

(a)(6) Provide for adequate fish and wildlife habitat to maintain viable populations of existing native vertebrate species and provide that habitat for species chosen under s 219.19 is maintained and improved to the degree consistent with multiple-use objectives established in the plan;

...

(a)(9) Provide that existing significant transportation and utility corridors and other significant right-of-ways that are capable and likely to be needed to accommodate the facility or use from an additional compatible right-of-way be designated as a right-of-way corridor. Subsequent right-of-way grants will, to the extent practicable, and as determined by the responsible line officer, use designated corridors;

...

(b) *Vegetative manipulation.* Management prescriptions that involve vegetative manipulation of tree cover for any purpose shall –

(1) Be best suited to the multiple-use goals established for the area with potential environmental, biological, cultural resource, aesthetic, engineering, and economic impacts, as stated in the regional guides and forest plans, being considered in this determination;...

(c) *Silvicultural practices.* The following management requirements apply to timber harvest and cultural treatments:

(1) No timber harvesting shall occur on lands classified as not suited for timber production pursuant to 219.14 except for salvage sales, sales necessary to protect other multiple-use values or activities that meet other objectives on such lands if the forest plan establishes that such actions are appropriate. These lands shall continue to be treated for reforestation purposes if necessary to achieve the multiple use objectives of the plan.

(g) *Diversity*

Management prescriptions, where appropriate and to the extent practicable, shall preserve and enhance the diversity of plant and animal communities, including endemic and desirable naturalized plant and animal species, so that it is at least as great as that which would be expected in a natural forest and the diversity of tree species similar to that existing in the planning area. Reductions in diversity of plant and animal communities and tree species from that which would be expected in a natural forest, or from that similar to the existing diversity in the planning area, may be prescribed only where needed to meet overall multiple-use objectives. Planned type conversion shall be justified by an analysis showing biological, economic, social, and environmental design consequences, and the relation of such conversions to the process of natural change.

40 CFR 1500 - IMPLEMENTING THE PROCEDURAL PROVISIONS OF THE NATIONAL ENVIRONMENTAL POLICY ACT

40 CFR 1500.1 Purpose.

...

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken . . . Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

40 CFR 1502.1 Purpose.

The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues ... Statements shall be ... supported by evidence that the agency

has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.

40 CFR 1502.2 Implementation.

(f) Agencies shall not commit resources prejudicing selection of alternatives before making a final decision (§ 1506.1).

(g) Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.

40 CFR 1502.6 Interdisciplinary preparation.

Environmental impact statements shall be prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (§ 1501.7).

40 CFR 1502.8 Writing.

Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.

40 CFR 1502.9 Draft, final, and supplemental statements.

(b) - Final environmental impact statements shall respond to comments as required in Part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

(c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

40 CFR 1502.14 Alternatives including the proposed action.

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (Sec. 1502.15) and the Environmental Consequences (Sec. 1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

- (a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.
- (b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.
- ...
- (d) Include the alternative of no action.
- (e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement ...
- (f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

40 CFR 1502.15 Affected Environment

The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analysis in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues . . .

40 CFR 1502.16 Environmental Consequences

This section forms the scientific and analytic basis for the comparisons under Sec. 1502.14. It shall consolidate the discussions of those elements required by sections 102(2)(C)(i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of section 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in Sec. 1502.14. It shall include discussions of:

- (a) Direct effects and their significance (Sec. 1508.8).
- (b) Indirect effects and their significance (Sec. 1508.8).
- ...
- (d) The environmental effects of alternatives including the proposed action. The comparisons under 1502.14 will be based on this discussion.
- ...
- (f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.
- ...
- (h) Means to mitigate adverse environmental impacts (if not fully covered under 1502.14(f)).

40 CFR 1502.22 Incomplete or unavailable information.

When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking.

40 CFR 1502.24 Methodology and scientific accuracy.

Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement. An agency may place discussion of methodology in an appendix.

40 CFR 1503.1 Inviting comments.

(a) After preparing a draft EIS and before preparing a final EIS the agency shall:

...

(4) Request comments from the public, affirmatively soliciting comments from those persons or organizations who may be interested or affected.

40 CFR 1503.4 Response to comments.

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

- (1) Modify alternatives including the proposed action.
- (2) Develop and evaluate alternatives not previously given serious consideration by the agency.
- (3) Supplement, improve, or modify its analyses.
- (4) Make factual corrections.
- (5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

(c) If changes in response to comments are minor and are confined to the responses described in paragraphs (a) (4) and (5) of this section, agencies may write them on errata sheets and attach them to the statement instead of rewriting the draft statement. In such cases only the comments, the responses, and the changes and not the final statement need be circulated ({ 1502.19).

The entire document with a new cover sheet shall be filed as the final statement (1506.9).

40 CFR 1504.1 Agency decision making procedures.

Agencies shall adopt procedures ... to ensure that decisions are made in accordance with the policies and purposes of the Act. Such procedures shall include but not be limited to:

...

(d) Requiring that relevant environmental documents, comments, and responses accompany the proposal through existing agency review procedures so that agency officials use the statement in making decisions.

40 CFR 1508.7 Cumulative impact.

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

40 CFR 1508.8 Effects

...

Effects and impacts as used in these regulations are synonymous. Effects include ecological . . . , aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative

40 CFR 1508.14 Human environment.

"Human environment" shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. (See the definition of "effects" (§ 1508.8).) This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

50 CFR 402 – INTERAGENCY COOPERATION – ENDANGERED SPECIES ACT OF 1973, AS AMENDED

Subpart B – Consultation Procedures

50 CFR 402.01 (a) Scope.

Section 7 (a)(2) of the Act requires every Federal agency in consultation with and with the assistance of the Secretary, to insure that any action it authorizes, funds or carries out, in the United States or high seas, is not likely to jeopardize the continued existence of any listed species or results in the destruction or adverse modification of critical habitat.

50 CFR 402.02 Definitions

Cumulative effects are those effects of future State or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action subject to consultation.

50 CFR 402.12 Biological Assessments.

The purpose of a biological assessment is to evaluate the potential effects of the action on listed and proposed species and designated and proposed critical habitat and determine whether any such species are likely to be adversely affected by the action and is used in determining whether formal consultation or conference is necessary.

50 CFR 402.12 (f) Contents.

The contents of the biological assessment are at the discretion of the Federal agency and will depend on the nature of the Federal action. The following may be considered for inclusion:

(4) An analysis of the effects of the action on the species and habitat, including consideration of cumulative effects.

50 CFR 402.12 (a) Purpose.

A biological assessment shall evaluate the potential effects of the action on listed and proposed species and designated and proposed critical habitat and determine whether any such species or habitat are likely to be adversely affected by the action and is used in determining whether formal consultation or a conference is necessary.

50 CFR 402.12(f) Contents.

The contents of a biological assessment are at the discretion of the Federal agency and will depend on the nature of the Federal action. The following may be considered for inclusion:

- (1) The results of an on-site inspection of the area affected by the action to determine if listed or proposed species are present or occur seasonally.
- (2) The views of recognized experts on the species at issue.
- (3) A review of the literature and other information.
- (4) An analysis of the effects of the action on the species and habitat, including consideration of cumulative effects, and the results of any related studies.
- (5) An analysis of alternate actions considered by the Federal agency for the proposed action.

50 CFR 402.12 (f)(4) Contents.

One-content considered for inclusion in the biological assessment is “an analysis of the effects of the action on species and habitat including consideration for cumulative effects”

50 CFR 402.13 (a) Informal Consultation.

Under informal consultation procedures; “if during informal consultation it is determined by the Federal agency, with written concurrence of the Service, that the action is not likely to adversely affect listed species or critical habitat, the consultation process is terminated, and no further action is necessary.”

50 CFR 402.14 Formal consultation.

(a) *Requirement for formal consultation.* Each Federal agency shall review its actions at the earliest possible time to determine whether any action may affect listed species or

critical habitat. If such a determination is made, formal consultation is required, except as noted in paragraph (b) of this section. The Director may request a Federal agency to enter into consultation if he identifies any action of that agency that may affect listed species or critical habitat and for which there has been no consultation. When such a request is made, the Director shall forward to the Federal agency a written explanation of the basis for the request.

(d) Responsibility to provide best scientific and commercial data available. The Federal agency requesting formal consultation shall provide the Service with the best scientific and commercial data available or which can be obtained during the consultation for an adequate review of the effects that an action may have upon listed species or critical habitat. This information may include the results of studies or surveys conducted by the Federal agency or the designated non-Federal representative. The Federal agency shall provide any applicant with the opportunity to submit information for consideration during the consultation.

Forest Service Policy - Manual (FSM)

FSM 1900 - PLANNING
WO AMENDMENT 1900-96-2
EFFECTIVE 8/14/96

CHAPTER 1920 - LAND AND RESOURCE MANAGEMENT PLANNING

This chapter provides for an integrated land and resource management planning effort at both the regional and local levels. The planning process determines availability of land for resource management, predicts levels of resource use and output, and provides direction for management of a variety of resource management practices.

1920.1 - Authority. Planning for the management and use of the National Forest System must conform to the requirements of the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) as amended by the National Forest Management Act of 1976 (NFMA), implementing regulations found in 36 CFR Part 219, the National Environmental Policy Act (NEPA), and implementing regulations found in 40 CFR 1500-1508. See FSM 1901 for a summary of the Acts, FSM 1013 for the text of 36 CFR Part 219, and FSH 1909.15 for Council on Environmental Quality (CEQ) regulations implementing NEPA.

FSM 2300 – RECREATION, WILDERNESS, AND RELATED RESOURCE MANAGEMENT

FSM 2310 Planning and Data Management

2310.3 - Policy. In addition to general planning policy presented in 36 CFR 219.1, FSM 1903, FSM 1920.3, FSM 1922.03, and FSM 2303:

1. Use the Recreation Opportunity Spectrum (ROS) to establish planning criteria, generate objectives for recreation, evaluate public issues, integrate management concerns, project recreation needs and demands, and coordinate management objectives.
2. Use the ROS system to develop standards and guidelines for proposed recreation resource use and development.
3. Use the ROS system guidelines to describe recreation opportunities and coordinate with other recreation suppliers.
4. Recognize individual National Forests need not provide recreation opportunities in each ROS class.

2310.43 - Forest Supervisor. The Forest Supervisor with the assistance of the Forest Recreation Management Staff shall:

1. Ensure that the recreation resource is integrated into the Forest plan.
2. Monitor the implementation schedule.
3. Ensure that Recreation Opportunity Settings (ROS) for recreation opportunities are presented in the Forest plan.

2311.1 - Recreation Opportunity Spectrum (ROS). Use the Recreation Opportunity Spectrum (ROS) system and the ROS Users Guide (U.S. Department of Agriculture, Forest Service. ROS Users Guide. Washington, DC: U.S. Department of Agriculture, Forest Service; 1982. 37p.) to delineate, define, and integrate outdoor recreation opportunities in land and resource management planning (FSM 1922.15, item 2). Recreation integration/coordination provides for integrated management prescriptions and associated standards to deal with the recreation resource. ROS defines six recreation opportunity classes that provide different settings for recreational use: primitive, semi-primitive nonmotorized, semi-primitive motorized, roaded natural, rural, and urban. Use ROS classes to describe all recreation opportunity areas--from natural, undisturbed, and undeveloped to heavily used, modified, and developed. Apply the criteria involving the physical, social, and managerial environments found in the ROS Users Guide to delineate the different ROS classes of land. Urban class areas are not normally an appropriate management objective for National Forest lands.

2311.11 - Recreation Opportunity Spectrum Visual and Access Guides. Exhibit 1 presents visual quality guides for each ROS class. Exhibit 2 presents access strategies for each ROS class.

(EXHIBITS 1 AND 2 ARE A SEPARATE DOCUMENT)

2311.12 - Recreation Opportunity Spectrum Subclasses. Each Recreation Opportunity Spectrum class may be divided into subclasses to better reflect local or Regional conditions. Regions using subclasses shall define subclasses clearly and coordinate with adjoining Regions. Subclasses must fall within the six major classes for regional and national data summarization.

R-10 SUPPLEMENT 2320-99-3 2323.3-2328.04
EFFECTIVE 01/27/1999

R-10 Chapter 2326 - Use of Motorized Equipment or Mechanical Transport in Wilderness.

2326.1 - Conditions Under Which Use May Be Approved.

6. Public Use. Section 1110 of ANILCA provides that the Forest Service shall permit the use of snowmachines (during periods of adequate snow cover), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities and for travel to and from villages and homesites.

Traditional activities include, but are not limited to, recreation activities such as fishing, hunting, boating, sightseeing, and hiking. Such uses are subject to reasonable regulation to protect natural and other values of wilderness from damage. Traditional activities, which are legal, shall be allowed to continue in wildernesses where such use has occurred, and no proof of pre-existing use will be required in order to use a snowmachine, motorboat, or airplane. No permits will be required by the general public to use these specific types of motorized transport or nonmotorized surface transportation methods for traditional activities that are otherwise allowed in areas not specifically closed to their use. ANILCA provides that such access shall not be prohibited unless, after notice and holding a hearing in the area, there is a finding that such use would be detrimental to the resource values of the wilderness. Closure of broad areas or entire wildernesses is not contemplated. However, restrictions or closures of specific areas within a wilderness may be made by the Regional Forester if, after public notice and a hearing, it is found that such use would be detrimental to resource values (Section 1110(a) of ANILCA).

Fixed-wing airplanes will be allowed to land on all suitable lakes, beaches, and ice fields without permits unless the activity requires a permit for another reason (for example, outfitter/guides) or the area is specifically closed.

Helicopter landing for other than authorized administrative use, emergency use, or other authorized uses specifically allowed by the Wilderness Act or ANILCA is prohibited. (Section 707 of ANILCA and Section 4(c) of the Wilderness Act.)

Equipment use authorized by Section 1316 of ANILCA shall include all equipment directly and necessarily related as a practical necessity to the taking of fish and wildlife but shall not include motorized forms of transportation other than snowmachines, motorboats, or airplanes. Use of such equipment is subject to reasonable regulations. The use of motorized equipment such as chainsaws for such activities shall be by permit.

Other motorized/mechanical equipment will not be allowed unless authorized by a special-use permit prior to passage of ANILCA or under other sections of this policy or specifically provided for in the Forest plan.

This section does not include subsistence use. See FSM 2328 for subsistence uses.

R-10 Chapter 2328 - Management of Certain Wilderness Areas.

1. Subsistence Uses. Subsistence use in Alaska is the customary and traditional use by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade (Section 803 of ANILCA). The following policies (See FSH 2609.25 R-10 12/85) apply to all National Forest System lands, including wilderness:

a. Consistent with sound management principles, the utilization of the public lands is to cause the least adverse impact possible upon rural residents who depend upon subsistence uses of the resources of such lands. (Section 802(1) of ANILCA.)

b. The nonwasteful subsistence uses of fish, wildlife, and other renewable resources (for example, berries, timber, and grasses) shall be the first priority consumptive use of such resources on the public lands when it is necessary to restrict taking in order to assure viability of a fish or wildlife population or the continuation of subsistence uses of such population. (Section 802(2) of ANILCA.)

c. Federal rulemaking authority (Federal Subsistence Board), in conjunction with the recommendations of Federal regional councils, will determine which stocks of fish in non-navigable waters and populations of game have been culturally and traditionally used by rural residents and are, therefore, available for subsistence use.

d. No withdrawal, reservation, lease, permit, or other use, occupancy or disposition of public lands, which would significantly restrict subsistence uses, shall be effected until the Federal agency head:

(1) Conducts an evaluation of the proposed action on subsistence uses and issues a finding on whether there may be a significant restriction;

(2) Gives notice to the Federal Subsistence Board and the appropriate Federal regional council, and holds a hearing in the vicinity of the area involved if there may be a significant restriction; and,

(3) Determines that such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands; the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition; and that reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions. (Section 810 of ANILCA.)

e. Rural residents engaged in subsistence uses shall have reasonable access to subsistence resources. Appropriate use of snowmachines, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents shall be permitted for subsistence purposes, subject to reasonable regulation to protect other resource values.

(Section 811 of ANILCA.)

f. The use of other mechanical/motorized equipment such as chainsaws is not allowed within wilderness unless necessary for the utilization of subsistence resources. Permits will be required for this use.

FSM Chapter 2350 – Trail, River, and Similar Recreation Opportunities

Effective 7/8/94

2350.3 – Policy.

...

2. Emphasize opportunities, in all ROS classes, that require minimal supporting facilities for the convenience of users, more self-reliance by the users, and less intrusion by constructed facilities upon the natural environment.

FSM Chapter 2352 – Road Recreation Management

Effective 7/8/94

2352.1 – Four-Wheel Drive Ways. Manage four-wheel drive ways as part of the Forest Development Road System (FSM 7703).

2353.05 – Definitions.

...

3. Four Wheel Drive Way. A forest development road is included in the Forest Development Transportation Plan and is commonly used by four-wheel drive, high - clearance vehicles with a width greater than 50 inches.

FSM Chapter 2355 – Off-Road Vehicle Use Management

Effective 3/12/91

Off-road vehicle (ORV) use is that vehicle use that occurs off of roads on areas and trails on National Forest lands.

2355.01 – Authority.

1. Executive Order 11644, as amended by Executive Order 11989, Use of Off-Road Vehicles (ex. 01).

2. Regulations issued by the Secretary of Agriculture pertaining to use of vehicles off roads are given in Title 36, Code of Federal Regulations (FSM 1013).

Specific regulations relating to off-road vehicle management may be found in:

- a. 36 CFR 261 – Prohibitions. The regulation establishes prohibitions necessary to manage and control use on National Forest Development Trails. It includes general prohibitions and prohibitions in areas designated by order.

...

2355.02 – Objectives. Provide off-road vehicle recreational opportunities that are in concert with the environmental setting, minimize off-road vehicle effects on the land and resources, promote public safety, and control conflicts with other uses of National Forest System lands.

2355.03 – Policy

1. Provide a diversity of off-road vehicle recreational opportunities when:
 - a. The use is compatible with established land and resource management objectives.
 - b. The use is consistent with the capability and suitability of the resources.
 - c. The type of off-road vehicle opportunity is an appropriate National Forest Recreation activity (FSM 2302 and FSM 2303).
 - d. There is a demonstrated demand.

...

3. Designate all National Forest System lands for off-road vehicle use in one of three categories: open, restricted, or closed (FSM 2352.11).
4. Use signing to identify either the areas that are open to off-road vehicle use or the areas that are closed to off-road vehicle use. Select the method that better informs the public and that is easier to administer. Coordinate signing policy with adjacent Federal, State, and local off-road vehicle managers.
5. Provide public information that, as a minimum, includes maps describing the areas and trails where use is permitted, prohibited, or restricted and that explains the conditions of such use.
6. Close areas or trails to the type of off-road vehicle causing, or likely to cause, considerable adverse effects. The areas or trails shall remain closed until the adverse effects have been eliminated and until measures have been implemented to prevent recurrence. Take action to provide alternate use areas where feasible and where consistent with the Forest Plan.

2355.05 Definitions

1. All Terrain Vehicle (ATV) See FSH 2309.18, Trails Management Handbook.
2. Competitive Use. Events, involving two or more persons, organized for the purpose of a contest, match or other trial of skill, ability or machine.
3. Considerable Adverse Off Road Vehicle Effect. Any Adverse effect that: will not meet the designation criteria as identified in FSM 2355.14; and that is or may become irreparable because of the impossibility or impracticability of performing corrective or remedial measures. In making this determination, the Forest Officer may consider the following factors:
 - a. Availability of funding and manpower to prevent or correct adverse effects.
 - b. Offsite (secondary) impacts.

- c. Physical and biological conditions, such as slope, vegetation, soil erodibility and compaction, surface and subsurface hydrology, site's natural rehabilitative capability, and so forth.
- d. Other social and political factors that may impair the ability to correct or prevent adverse effects.
- e. Those natural, historical, and cultural resources and areas that are susceptible to irretrievable resource damage.

4. Four-Wheel Drive Way. See FSM 2353. 05.

5. Group Events. Events involving more than 50 people or events involving a lesser number but having the potential to cause unacceptable resource impacts, user conflicts, safety problems, or administrative impacts.

6. Minimize Off-Road Vehicle Effects. To reduce off-road vehicle effects to the smallest degree feasible short of elimination, consistent with the specific management direction and practices established for the area as determined by economic, legal, environmental, and technological factors.

7. Adverse Off-Road Vehicle Effect. Any effect as a result of ORV use that does not meet the standards for the:

- a. Maintenance of the long-term productive capacity of the land.
- b. Maintenance of air and water quality.
- c. Maintenance of wildlife habitat and stable and balanced populations of wildlife.
- d. Maintenance of other existing and proposed uses of the Forest.
- e. Preservation of cultural and historical resource values.

8. Road. A general term denoting a facility for purposes of travel by vehicles greater than 50 inches in width. Includes only the area occupied by the road surface and cut and fill slopes.

9. Snowmobile. A self-propelled vehicle intended for travel primarily on snow, having a curb weight of not more than 1,000 pounds, driven by a track or tracks in contact with the snow, and steered by a ski or skis in contact with the snow.

10. Trail Vehicle. See FSM 2353.05.

2355.12 - Analysis of Management Situation. The analysis of the management situation, as a minimum, must determine that the criteria established in FSM 2355.14 will be met (FSM 1920).

2355.13 - Designate Zones of Use. Designate National Forest System lands to allow, restrict, or prohibit specific types of off-road vehicle use as follows:

- 1. Open. Areas and trails on which all types of motorized vehicles may be operated off roads without restriction.
- 2. Restricted. Areas and trails on which motorized vehicle use is restricted by times or season of use, types of vehicles, vehicle equipment, designated areas or trails, or types of activity specified in orders issued under the authority of 36 CFR 261.
- 3. Closed. Areas and trails on which all motorized vehicle use is prohibited, except by permit, under authority of 36 CFR 261 or by law.

...

Indicate designation on maps and by signing.

2355.14 - Designation Criteria.

1. The designation of areas and trails as open, restricted, or closed to off-road vehicle use shall be made in a manner that will:
 - a. Promote user enjoyment.
 - b. Minimize damage to soil, watershed, vegetation, or other natural, cultural, and historical resources of the public lands.
 - c. Minimize harassment of wildlife or significant disruption of wildlife habitats.
 - d. Minimize conflicts between off-road vehicle use and other existing or proposed uses on the same or neighboring public lands and ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors of the human environment.
 - e. Promote the safety of all users of the public lands.
 - f. Be consistent with the established management objectives for the areas under consideration.
2. Within the confines of the foregoing requirements, the designation of open, restricted, and closed areas and trails should also:
 - a. Provide a range of opportunities as wide and balanced for off-road vehicle use as is possible, consistent with the Forest setting and National Forest Recreation objectives and policy.
 - b. Consider local standards for air, noise, and other factors not specifically addressed in the mandatory criteria described above.
 - c. Recognize the differences between various types of off-road vehicles, recognize the different impacts that they may have on the various resources and on public safety, and recognize different types of conflicts they may cause with other Forest visitors.

FSM 2600 – FISH AND SENSITIVE PLANT HABITAT MANAGMENT

Chapter 2670 – Threatened, Endangered and Sensitive Plants and Animals

Effective 6/23/95

[This update r]evises direction in this chapter to bring Forest Service direction on conferencing and on formal consultation into agreement with the Department of Interior's consultation regulations pursuant to section 7 of the Endangered Species Act.

The revised direction requires conferencing with the appropriate regulatory agency when the Forest Service determines that a proposed action is likely to jeopardize a species proposed for Federal listing. This amendment is a continuation of direction previously issued in interim direction 2670-92-1 which has expired.

The revised direction requires formal consultation on Forest Service actions that may affect listed species unless the Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) concurs with a Forest Service determination of "not likely to adversely affect" listed species.

2670.21 - Threatened and Endangered Species. Manage National Forest System habitats and activities for threatened and endangered species to achieve recovery objectives so that special protection measures provided under the Endangered Species Act are no longer necessary. Promote recovery efforts through Research and State and Private Forestry programs.

2670.31 - Threatened and Endangered Species.

(1) - Place top priority on conservation and recovery of endangered, threatened, and proposed species and their habitats through relevant National Forest System, State and Private Forestry, and Research activities and programs.

(2) Establish through the Forest planning process objectives for habitat management and/or recovery of populations, in cooperation with States, the Fish and Wildlife Service (FWS) (or National Marine Fisheries Service (NMFS)), and other Federal agencies.

...

(4) Avoid all adverse impacts on threatened and endangered species and their habitats except when it is possible to compensate adverse effects totally through alternatives identified in a biological opinion rendered by the FWS; when an exemption has been granted under the act; or when the FWS biological opinion recognizes an incidental taking. Avoid adverse impacts on species proposed for listing during the conference period and while their Federal status is being determined.

2670.32 - Sensitive Species. (3) Avoid or minimize impacts to species whose viability has been identified as a concern.

2670.44 - Regional Foresters. The Regional Foresters: (1) Formulate and coordinate the overall Regional Threatened, Endangered, and Sensitive Species Program to ensure compliance with law and policy.

2670.5 - Definitions.

22. Viable Populations. A population that has the estimated numbers and distribution of reproductive individuals to ensure the continued existence of the species throughout its existing range (or range required to meet recovery for listed species) within the planning area.

2671.44 - Determination of Effects on Listed or Proposed Species Use the biological evaluation process to conduct and document the program and activities review necessary to ensure that any action authorized, funded, or carried out by the Forest Service is not likely to jeopardize the continued existence of any listed or proposed species or to result in the destruction or adverse modification of critical or proposed critical habitat. . . . When conducting biological evaluations, Forest units shall make full use of internal biological expertise and informal consultation with the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) to reach supportable determinations of

effect.; and . . .Ensure compliance with standards for biological evaluations under FSM 2672.42.

2671.45a. - Informal Consultation Informal consultation consists of all contacts, correspondence, or discussion between a Federal agency or its designated non-Federal representative and the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) that take place prior to initiation of any necessary formal consultation.

Utilize informal consultation with FWS or NMFS to achieve the following:

1. To produce a sound biological evaluation that incorporates the best information available from FWS or NMFS.
2. To identify project alternatives and discuss modifications and protective measures that would avoid adverse effects so that formal consultation is not necessary.
3. To inform FWS or NMFS of actions designed to benefit proposed species.

2671.45c (1). - Formal Consultation Formal consultation is mandatory for all agency programs or activities that may affect a listed species or critical habitat, unless the Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS) concurs with the Forest Service determination that the proposed action is not likely to adversely affect listed species.

2672.1 - Sensitive Species Management. Sensitive species of native plant and animal species must receive special management emphasis to ensure their viability and to preclude trends toward endangerment that would result in the need for Federal listing.

There must be no impacts to sensitive species without an analysis of the significance of adverse effects on the populations, its habitat, and on the viability of the species as a whole. It is essential to establish population viability objectives when making decisions that would significantly reduce sensitive species numbers.

2672.31 - Forest Plan Objectives for Federally Listed Species. Federally listed species Forest Plan objectives must relate to the overall goal of effecting recovery and achieving eventual delisting. Management to achieve species recovery levels is required by law. Management at recovery levels specified in Recovery Plans equates with the National Forest Management Act requirement to maintain viable populations of native and desired non-native vertebrate species. Forest Plan preferred alternatives must meet or exceed recovery objectives.

2672.32 - Forest Plan Objectives for Sensitive Species. For sensitive species, include objectives in Forest plans to ensure viable populations throughout their geographic ranges. Once the objectives are accomplished and viability is no longer a concern, species shall not have "sensitive" status.

2672.4. - Biological Evaluations. Review all Forest Service planned, funded, executed, or permitted programs and activities for possible effects on endangered, threatened, proposed, or sensitive species. The biological evaluation is the means of conducting the review and of documenting the findings. Document the findings of the biological evaluation in the decision notice. Where decision notices are not prepared, document the findings in Forest Service files. The biological evaluation may be used or modified to satisfy consultation requirements for a biological assessment of construction projects requiring an environmental impact statement.

2672.41 - Objectives of the Biological Evaluation (1) To ensure that Forest Service actions do not contribute to loss of viability of any native or desired non-native plant or contribute to animal species or trends toward Federal listing of any species.

2672.42

1. An identification of all listed, proposed, and sensitive species known or expected to be in the project area or that the project potentially affects. Contact the Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) as part of the informal consultation process for a list of endangered, threatened, or proposed species that may be present in the project area.
2. An identification and description of all occupied and unoccupied habitat recognized as essential for listed or proposed species recovery, or to meet Forest Service objectives for sensitive species.
3. An analysis of the effects of the proposed action on species or their occupied habitat or on any unoccupied habitat required for recovery.
4. A discussion of cumulative effects resulting from the planned project in relationship to existing conditions and other related projects.
5. A determination of no effect, beneficial effect, or "may" effect on the species and the process and rationale for the determination, documented in the environmental assessment or the environmental impact statement.
6. Recommendations for removing, avoiding, or compensating for any adverse effects.
7. A reference of any informal consultation with the Fish and Wildlife Service as well as a list of contacts, contributors, sources of data, and literature references used in developing the biological evaluation.

2672.43 - Procedure for Conducting Biological Evaluations. A suggested procedure for conducting and documenting findings of a biological evaluation is outlined in exhibit 1.

Forest Service Policy - Handbook (FSH)

FSH 1909.12 - LAND AND RESOURCE MANAGEMENT PLANNING HANDBOOK

WO AMENDMENT 1909.12-92-1
Effective 8/3/92

CHAPTER 7 - WILDERNESS EVALUATION

7.01-Authority The purpose of wilderness and the broad direction for managing wilderness are in the Wilderness Act of 1964 and the Eastern Wilderness Act of 1975. Further requirements for evaluation and designation of wilderness are in 36 CFR 219.17, FSM 1923, and FSM 2320.

...

7.11 - Inventory Criteria.

Roadless areas qualify for placement on the inventory of potential wilderness if, in addition to meeting the statutory definition of wilderness, they meet one or more of the following criteria:

1. They contain 5,000 acres or more.
2. They contain less than 5,000 acres but:
 - a. Due to physiography or vegetation, they are manageable in their natural condition.
 - b. They are self-contained ecosystems such as islands.
 - c. They are contiguous to existing wilderness, primitive areas, Administration-endorsed wilderness, or roadless areas in other Federal ownership, regardless of their size. They do not contain improved roads maintained for travel by standard passenger-type vehicles, except as permitted in areas east of the 100th meridian.

...

7.21 - Capability. The capability of a potential wilderness is the degree to which that area contains the basic characteristics that make it suitable for wilderness designation without regard to its availability for or need as wilderness. The combinations of basic natural characteristics are of infinite variety. No two areas possess these characteristics in the same measure. The combinations that may be appraised in one section of the country as being highly desirable for wilderness designation might be appraised as nominal or negative in another. The principal wilderness characteristics that follow are generally, but not necessarily, listed in order of importance or desirability. Consider these characteristics in analyzing the quality of the wilderness resource of an inventoried roadless area. If these characteristics are determined to be important, describe and refer to them in tradeoff analyses when pertinent.

1. Environment. Determine the degree to which an area provides visitors with the opportunity to gain a wide range of experiential benefits such as a feeling of solitude and serenity, a spirit of adventure and awareness, and a sense of self-reliance.

Determine the degree to which an area is natural or appears to be natural and free from disturbance so that the normal interplay between biotic species inhabiting the area continues.

Identify the range of geological, biological, or ecological strata or any particularly unique segment of these strata. Assess whether the area has any other scientific, educational, or historical values. Social, economic, and environmental factors must blend together with natural features to make the area desirable and manageable as wilderness.

2. Challenge. Determine the degree to which the area offers visitors the opportunity to experience adventure, excitement, challenge, initiative, or self-reliance. The most desirable area offers many outstanding opportunities for adventure and challenge.

3. Outdoor Recreation Opportunities. Determine an area's capability of providing primitive and unconfined types of recreation such as camping, hunting, fishing, mountain climbing, ski touring, canoeing, boating, river rafting, backpacking, hiking, riding, photography, and other outdoor activities.

4. Special Features. Describe the roadless area's capability to provide outdoor education and scientific study, both formal and informal, in a manner that is compatible with wilderness. Abundant and varied wildlife may enhance an area's wilderness capability. If the primary objective should be the protection or management of one or more wildlife species, analyze the relative values of wilderness and wildlife management. In some instances, particularly where nonconforming structures or activities are necessary for management of the wildlife or its habitat, wilderness designation may not be appropriate. Special scenic features contribute to an area's wilderness capability.

5. Manageability. In determining capability, consider the ability to manage an area as wilderness as required by the Wilderness Act. Section 2(c) of the Wilderness Act gives some direction toward this end by defining Wilderness as an area that "... (3) has at least 5,000 acres of land or is of sufficient size to make practicable its preservation and use in an unimpaired condition...." Forest Service ability to manage an area as an enduring resource of wilderness, untrammelled by man, retaining its primeval character, and to protect and manage its natural character is all factors to consider. Also consider such factors as size, shape, and juxtaposition to external influences.

Evaluate how boundaries affect manageability of an area. In the most desirable situations:

- a. Boundary locations avoid conflict with important existing or potential public uses outside the boundary that might result in demands to allow nonconforming structures and activities in the wilderness.
- b. It is possible to readily and accurately describe, establish, and recognize boundaries on the ground.
- c. Boundaries, where possible, conform with terrain or other features that constitute a barrier to prohibited use.

d. Boundaries, to the extent practicable, act as a shield to protect the wilderness environment inside the boundary from the sights and sounds of civilization outside the wilderness.

e. Boundaries provide adequate opportunity for access and traveler transfer facilities.

7.22 - Availability. All National Forest System lands determined to meet wilderness capability requirements are generally available for consideration as wilderness. However, the determination of availability is conditioned by the value of and need for the wilderness resource compared to the value of and need for other resources. To be available for wilderness, the values of the wilderness resource, both tangible and intangible, should offset the value of resources that formal wilderness designation would forego. The predominant value does not necessarily reflect the use or combination of uses that would yield the greatest dollar return or the greatest unit output. In evaluating availability, describe the other resource demands and uses that the area under evaluation could satisfy. Include all other resource potentials--pertinent quantitative and qualitative information including current use, outputs, trends, and potential future use, and outputs of the various resources involved.

7.23 - Need. Determine the need for an area to be designated as wilderness through an analysis of the degree to which it contributes to the local and national distribution of wilderness. There should be clear evidence of current or future public need for additional designated wilderness in the general area under consideration. Demonstrate this need through the public involvement process, including public input to environmental analysis and its resultant documentation. Deal with "need" on a national basis and evaluate such factors as the geographic distribution of areas, representations of landforms and ecosystems, and the presence of wildlife expected to be visible in a wilderness environment.

It is not possible to consider the need for the wilderness resource wholly apart from the demand for other uses of the land that might be compatible with wilderness. Nevertheless, considering that the purpose of wilderness designation is to provide an enduring resource of wilderness for the American people, it is essential to analyze the need for wilderness in order to establish its relative value.

...

7.23b - Factors. In determining whether there is a need to designate a roadless area as wilderness, consider at least the following factors:

1. The location, size, and type of other wildernesses in the general vicinity and their distance from the proposed area.

Consider accessibility of areas to population centers and user groups. For example, there may be a need to have wilderness within a days drive or 250 miles of the Nation's population centers where current opportunity for wilderness enjoyment is limited.

2. Present visitor pressure on other wildernesses, the trends in use, changing patterns of use, population expansion factors, trends and changes in transportation, and Nation-wide travel patterns.
3. The extent to which nonwilderness lands on the National Forest, other Federal lands, State lands, and private lands other than wildernesses are likely to provide opportunities for unconfined outdoor recreation experiences.
4. The ability of certain biotic species to compete with increasing public use and developmental projects that affect their habitats. Consider means available, other than wilderness designation, for meeting this need.
5. The need to provide a sanctuary for those biotic species that have demonstrated an inability to survive in less than primitive surroundings or the need for a protected area for other unique scientific values or phenomena.
6. An area's ability to provide for preservation of identifiable landform types and ecosystems. Consideration of this factor may include utilization of Edwin A. Hammond's subdivision of landform types and the Bailey-Kuchler ecosystem classification. This approach is helpful from the standpoint of rounding out a National Wilderness Preservation System and may be further subdivided to suit local, subregional, and regional needs.

FSH 1909.12 - LAND AND RESOURCE MANAGEMENT PLANNING HANDBOOK

WO AMENDMENT 1909.12-92-1

CHAPTER 8 - WILD AND SCENIC RIVER EVALUATION EFFECTIVE 8/3/92

8.11 - Identification of Study Rivers. Rivers are identified for study for potential inclusion in the System by several means:

1. Federal statute that mandates Federal agencies to study a river pursuant to Section 5(a) of the Act.
2. Identification for study by the Secretary of Agriculture or the Secretary of the Interior pursuant to Section 5(d) of the Act.
3. The Nationwide River Inventory (NRI) developed by the National Park Service, U.S. Department of the Interior. Each river identified in this inventory that crosses National Forest System lands should be studied as part of the forest land management planning process.
4. The land management planning process.

Consideration of other rivers is particularly important where the NRI is incomplete, as in Montana, Alaska, and the Pacific Northwest. Also give consideration to rivers identified in the Pacific Northwest Rivers Study, in State river assessments, or by other Federal or State agencies or by private interests.

8.12 - Interim Management of Study Rivers. Management prescriptions for river corridors identified in the National River Inventory, or otherwise identified for study, should provide protection in the following ways:

1. To the extent the Forest Service is authorized under law to control stream impoundments and diversions, the free flowing characteristics of the identified river cannot be modified.
2. Outstandingly remarkable values of the identified river area must be protected and, to the extent practicable, enhanced.
3. Management and development of the identified river and its corridor cannot be modified to the degree that eligibility or classification would be affected (i.e., classification cannot be changed from wild to scenic or scenic to recreational).

Specific management guidance for each of the river classifications can be found in the revised USDA - USDI Guidelines for Eligibility, Classification, and Management of River Areas (ch. 9), and in the additional standards for study river assessment and management in section 8.2 of this chapter. These management guidelines should be followed, to the extent of Forest Service authority, for all identified study rivers.

The protection requirements specified above must be documented in the forest plan prescriptions and continued until a decision is made as to the future use of the river and adjacent lands. Congressionally authorized rivers must be protected, as specified in Section 12(a) of the Wild and Scenic Rivers Act, until action is taken by the Congress.

The protection may be modified or discontinued for NRI rivers or other rivers identified in the forest planning process in the following cases:

1. For the entire river or segment(s) of the river that are determined to be ineligible for the Wild and Scenic Rivers System (section 8.32b).
2. For the entire river, if determined to be unsuitable for the Wild and Scenic Rivers System, following the appropriate review process (section 8.4).
3. For unsuitable segment(s) of a river recommended for Wild and Scenic River designation after the Record of Decision is signed by the Secretary of Agriculture.
4. Following Congressional action for suitable segments of the river that are not included in the Wild and Scenic Rivers System.

FSH 1909.15 - ENVIRONMENTAL POLICY AND PROCEDURES HANDBOOK

CHAPTER 10 - ENVIRONMENTAL ANALYSIS

Effective 9/21/92

12.3b - Identify Significant Issues. Recommend to the responsible official the significant issues to be addressed, taking interested and affected agency, organization, and public comments into account. The responsible official, not the ID team or the

analyst(s), approves the list of significant issues used to develop alternatives and may adjust and refine the issues as new insights and information emerge during analysis.

12.3c - Explore Possible Alternatives. Consider a full range of reasonable alternatives to the proposed action that address the significant issues and meet the purpose and need for the proposed action.

During scoping and the subsequent public participation activities, discuss the feasibility and possible effects of these alternatives with potentially interested and affected agencies, organizations, and persons. If the proposed action is on National Forest System lands, discuss the consistency of each alternative with the forest's Land and Resource Management Plan. The ID team recommends and the responsible official decides which alternatives merit further study and which do not require detailed analysis.

14 - Develop Alternatives. Based on the results of scoping and the determination of issues to be analyzed in detail, develop and consider all reasonable alternatives to the proposed action. As established in case law interpreting the National Environmental Policy Act, the phrase "all reasonable alternatives" has not been interpreted to require that an infinite or unreasonable number of alternatives be analyzed, but does require a range of reasonable alternatives be analyzed whether or not they are within Forest Service jurisdiction to implement.

14.2 - Other Alternatives. Develop other alternatives fully and impartially. Ensure that the range of alternatives does not prematurely foreclose options that might protect, restore, and enhance the environment. Consider reasonable alternatives even if outside the jurisdiction of the Forest Service. Alternatives must meet the purpose and need of the proposed action and specify any activities that may produce important environmental changes. When appropriate, descriptions of alternatives should include mitigation measures and relevant management requirements such as State water quality standards. Modify alternatives or develop new alternatives as the analysis proceeds.

14.3 - Alternatives Not Considered in Detail. Briefly describe the alternatives not considered in detail, discuss the reasons for their being eliminated, and include this information in the project or case file. If an EIS is required, this information must be disclosed in the chapter on alternatives (sec. 22.3, 5).

18 - Correction, Supplementation, or Revision of Environmental Documents and Reconsideration of Decisions to Take Action. Review the environmental documentation of . . . those ongoing programs or projects at least every 3 to 5 years to determine if the environmental analysis and documentation should be corrected, supplemented, or revised.

CHAPTER 40 ENVIRONMENTAL ASSESSMENTS AND RELATED DOCUMENTS

41 - ENVIRONMENTAL ASSESSMENTS. Prepare environmental assessments (EA's) to document the results of environmental analyses and to disclose the environmental

consequences for proposed actions that are not categorically excluded from documentation and for which the need for an environmental impact statement has not been determined.

The CEQ Regulations provide that an environmental assessment is not necessary if the agency has decided to prepare an environmental impact statement (40 CFR 1501.3(a)). Therefore, if, prior to completion of the environmental assessment, the responsible official determines an environmental impact statement should be prepared, discontinue the environmental assessment documentation, prepare a notice of intent (sec. 21), and proceed with the preparation of an environmental impact statement (ch. 20).

FSH 2409.13 – TIMBER RESOURCE PLANNING HANDBOOK
Amendment No. 2409.13-96-2
Effective August 15, 1996

32 - ROTATION. In even-aged management, the selection of rotation age or ages materially affects the length of time required to achieve the desired distribution of age classes and LTSYC. Within the requirements described in FSH 2409.13-32.1, a range of rotation ages or timing options is preferable for analysis of present and future stands. A variety of rotation ages provides a means of progressing toward the regulated forest as well as providing the variety of tree sizes required to meet the needs of other resources. For most species and forest types, select rotations that produce sawtimber and veneer products, unless otherwise provided for in the forest plan.